

Remarks

Claims 1-7, 9-15 are pending in this application and have been rejected. Claim 8 has been objected to. Claim 16 has been allowed. Claims 1 & 15 are currently amended. Reconsideration is requested in light of the amendments above and remarks below.

The present invention relates to a trocar sleeve having a lock mechanism to lock the lever in various positions, *i.e.* in the extreme position and in at least one intermediate position.

The Examiner has rejected amended claim 1 as anticipated by U.S. Patent No. 5,657,963 to Hinchliffe *et al.*

Amended claim 1 requires, among other things, at least three lock positions wherein said spreading device is not movable. These positions include three structural limitations to at least three lock positions, including: 1) a zero position without stretching and spreading the sealing; 2) a second position of a maximum stretching of the sealing; and 3) at least one intermediate position between said zero position and said second maximum stretching position for intermediate spreading of said sealing. Nowhere does Hinchliffe disclose the claimed lock mechanism comprising at least one intermediate position where the device can stay locked while maintaining intermediate spreading of the sealing. Accordingly, the claimed invention is not anticipated.

Furthermore, it is respectfully submitted that the Examiner's reliance on Fig. 20 allegedly showing intermediate position between the open and closed positions is misplaced. Nowhere does Hinchliffe show a device capable of locking the dilator into an intermediate position. In fact, the guide/slot-link guide 669 (as identified by the Examiner) is only a straight slot in the housing with no ability to bias slidable member 663 in an intermediate position. See also Column 15 which explains that toggle member 667

enables a user to manually actuate spring members 655a and 655b between the first position where dilator 628 is spaced from gasket 618 and the second position where dilator 628 engages and spreads gasket 618. Nowhere is there any mention of a locking mechanism capable of holding toggle member 667 in an intermediate position which would likely be needed to counter spring bias created when a user manipulates the toggle out of the resting position. Since claim 1 requires a lock mechanism comprising . . . at least one intermediate position between said zero position and said second maximum stretching position for intermediate spreading of said sealing, and no such lock mechanism is shown in Hinchliffe, claim 1 is not anticipated.

Similarly, independent claim 15, requires a lock for interlocking the spreading device in at least three different positions, *i.e.* zero position without stretching and spreading said sealing, a position of a maximum stretching said sealing and intermediate spreading positions being between said zero position and said maximum stretching position. Hinchliffe fails to show a lock capable of holding the spreading device in intermediate spreading positions between the zero position and the maximum stretching position. It is respectfully submitted that reliance on Fig. 20 is misplaced for reasons similar to those listed above. Accordingly, claim 15 is not anticipated by Hinchliffe. Reconsideration is urged.

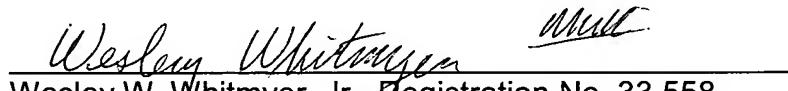
Moreover, the cited reference does not make the claimed invention obvious.

The mechanism of Hinchliffe only allows the movable portions to stop in two extreme positions, a maximum and minimum diameter. This is confirmed by the Examiner's belief that a user's hand would be necessary to hold the Hinchliffe device in an intermediate position. Conversely, the Applicant's have invented a device having a lock mechanism capable of maintaining the aperture diameter in at least three positions, *e.g.* a zero position without stretching and spreading of the sealing, a second position of a maximum stretching of the sealing and at least one intermediate spreading position. Applicant's device is able to hold at least three positions without the assistance of a

user's hand, thus freeing a surgeon's hand for other tasks. Accordingly, nothing in the reference would suggest to one of ordinary skill in the art to modify Hinchliffe to include a lock capable of providing at least three lock positions, and claims 1 & 15 are not obvious.

It is respectfully submitted that claims 1-7 & 9-15 are in order for allowance and early notification to that effect is requested. If the Examiner has any questions about this Preliminary Amendment he is invited to telephone Michael Krenicky to discuss at (203) 324-6155.

Respectfully submitted,



Wesley W. Whitmyer, Jr., Registration No. 33,558
Michael W. Krenicky, Registration No. 45,411
Attorneys for Applicants
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155